

## FOREIGN EMPLOYMENT AND EMPLOYMENT ON AMERICAN VESSELS OR AIRCRAFT

### FOREIGN EMPLOYMENT BY A UNITED STATES CITIZEN

#### UNEMPLOYMENT INSURANCE, STATE DISABILITY INSURANCE, AND EMPLOYMENT TRAINING TAX

For purposes of unemployment insurance (UI), state disability insurance (SDI)\*, and employment training tax (ETT), a citizen of the United States performing services outside the United States and Canada for an American employer is covered by California law if:

1. The American employer's principal place of business in the United States is in California, or
2. The American employer has no place of business in the United States, but:
  - The employer is an individual who is a resident of California, or
  - The employer is a corporation or limited liability company (LLC) that is organized under California laws, or
  - The employer is a partnership or trust and the number of partners or trustees who are California residents exceeds the number who are residents of any other state.
3. If neither #1 nor #2 applies, then the worker is covered by California law if the American employer has elected coverage in California. If the employer has not elected coverage in California or any other state, the worker is covered by California law if the worker has filed a benefit claim in California.

An "American employer" means a person who is any of the following:

- (a) An individual who is a resident of the United States.
- (b) A partnership, if two-thirds or more of the partners are residents of the United States.
- (c) A trust, if all the trustees are residents of the United States.

\* Includes Family Temporary Disability Insurance (FTDI) beginning January 1, 2004.

- (d) A corporation organized under the laws of the United States or of any state.
- (e) An LLC organized under the laws of the United States or of any state.
- (f) Any Indian tribe as described by subsection (u) of Section 3306 of Title 26 of the United States Code.

### PERSONAL INCOME TAX WITHHOLDING

Wages paid to a California resident for services performed outside the United States are subject to California personal income tax (PIT) withholding when they are paid by an employer who does business in California, derives income from sources within California, or in any manner is subject to the laws of California.

#### EXAMPLE:

XYZ Company, a Delaware corporation, maintains its principal place of business in California but has branch offices in London, England, and Paris, France. XYZ hired John Jones, a U.S. citizen, to manage the London operations, and John and his family have moved their residence to England. John's services are subject to UI, ETT, and SDI in California because he is a U.S. citizen performing services outside the United States for an American employer that maintains its principal place of business in California. John's wages are not subject to California PIT withholding because he is not a California resident and he performed no services in California.

### NONRESIDENT ALIENS WORKING IN CALIFORNIA

Residents of countries other than the United States who are not United States citizens are also subject to California law for most services performed in this state. For example:

Mr. X, a foreign citizen and president of a corporation in his country, comes to California two weeks every year to visit a subsidiary corporation operating in California. He is paid wages by the subsidiary for management services while visiting in California. At the end of two weeks he returns to his home country. Since the services were performed in California and are not specifically exempted by statute, the wages paid to Mr. X by the subsidiary are subject to all California payroll taxes (UI, ETT, SDI, and PIT) even though Mr. X is neither a citizen of the United States nor a resident of California.

## **EMPLOYMENT ON AN AMERICAN VESSEL OR AIRCRAFT — WITHIN OR WITHOUT THE UNITED STATES**

### **UNEMPLOYMENT INSURANCE, STATE DISABILITY INSURANCE, AND EMPLOYMENT TRAINING TAX**

Service performed for an employing unit on or in connection with an American vessel operating on navigable waters within or within and without the United States or on or in connection with an American aircraft operating within or within and without the United States is reportable to California if:

- The employing unit maintains in California an operating office from which the operations of the American vessel or aircraft are ordinarily and regularly supervised, managed, directed, and controlled, and
- Such services are included in “employment” under the Federal Unemployment Tax Act (FUTA).

“American vessel” means any vessel documented under the laws of the United States, and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any state.

“American aircraft” means an aircraft registered under the laws of the United States.

## **EXAMPLE**

ABC Company sails cruise ships from San Francisco to Alaska with a stop at a port in the State of Washington. ABC’s ships are all documented under the laws of the United States, and ABC regularly supervises, manages, directs, and controls its ships from its office in San Francisco. Wages paid to ABC’s crew members are reportable to California because (1) the services were performed on an American vessel operating on navigable waters within and without the United States, (2) the employer directs the vessel from its operating office in San Francisco, and (3) the services are included in “employment” under FUTA.

**Workers performing services on or in connection with a vessel or aircraft that is not an American vessel or American aircraft are not in covered employment if the worker is employed on or in connection with such vessel or aircraft when outside the United States.**

### **PERSONAL INCOME TAX WITHHOLDING**

Wages paid to a California resident for services performed on an American aircraft are subject to California PIT withholding. Wages paid for services on an American vessel are not subject to California PIT withholding.

### **ADDITIONAL INFORMATION**

If you have any questions regarding this Information Sheet, you may:

- Visit your local Employment Tax Office listed in the California Employer’s Guide (DE 44) and on our Internet site at [www.edd.ca.gov/taxloc.htm](http://www.edd.ca.gov/taxloc.htm).
- Call the Employment Tax Call Center toll-free at 1-(888)-745-3886.

Speech and hearing impaired users can reach the Department by calling 1-(800)-547-9565.